

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

VIVIAN BERT, et al.,

Plaintiffs,

V.

AK STEEL CORPORATION.

Defendant.

CASE NO. C-1-02-467

Judge Beckwith

Magistrate Judge Hogan

PLAINTIFFS' RESPONSE TO MOTION TO DISMISS THE CLAIMS OF PLAINTIFFS
DWIGHT LEWIS AND TIFFANY JACKSON

The Plaintiffs, by and through undersigned counsel, hereby respond to Defendant's Motion to Dismiss the Claims of Plaintiffs Dwight Lewis and Tiffany Jackson.

Plaintiffs' counsel has made numerous attempts to contact Dwight Lewis, but he has not responded to any of the attempted communications. On June 27, 2007, an attempt was made to contact Mr. Lewis at the phone number we had in our file for him, but the person answering said he no longer lived there and did not know how to reach him. On June 28, 2007, an attempt was made to contact Mr. Lewis at a phone number we believed to be his grandmother's phone number, but the person answering said she had never heard of him. We also attempted to contact Mr. Lewis at another phone number in Portsmouth, Ohio which we thought may be his phone number, but no one returned our calls. On June 29, 2007, plaintiff's counsel sent a certified letter to Mr. Lewis' last known address, but received no response.

Similarly, attempts were made to contact Tiffany Jackson in order to prepare her interrogatory answers, but we were unable to receive a response from her. Several phone calls were made to her cell

phone number that we had on file, but we received a message that the phone number was no longer in service. On June 4, 2007 we e-mailed her a copy of her interrogatories asking her to contact us so we could prepare her answers. We received no response. On June 26, 2007, we were able to speak with her confirming her deposition schedule for August 2007 and to consult with her about her answers to the interrogatories propounded by the defendant. She did not send her answers, nor did she answer our phone calls regarding the need to provide us with answers to the interrogatories. On July 17, 2007, we sent Ms. Jackson a letter confirming her deposition date and asking her to call to confirm that she would be there. On August 13, 2007, the day before her deposition, Ms. Jackson called plaintiffs' counsel to confirm that she would be at the deposition. On the morning of Ms. Jackson's deposition, plaintiff's counsel received a phone call from Ms. Jackson's mother stating that Ms. Jackson would not be appearing for her deposition. Plaintiffs' counsel have heard nothing further from Ms. Jackson.

The plaintiffs agree that dismissing Dwight Lewis and Tiffany Jackson's claims will not affect the claims of the two subclasses certified by this Court.

Respectfully submitted,

s/ Susan Donahue

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CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will automatically serve the following::

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